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J. S. R.

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/527,066 03/17/00 RUGG

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EXAMINER

QM12/1205

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GARBE, S

ART UNIT

PAPER NUMBER

3727

#2

DATE MAILED:

12/05/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/527,066

Applicant(s)
Rugg

Examiner
Stephen P. Garbe

Group Art Unit
3727



☐ Responsive to communication(s) filed on _____

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire Three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-20 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-20 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892 (2 pages)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 8 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no antecedent for "said one outer pocket." It appears that these claims should depend from claim 7.

3. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no antecedent for "the outer surface" or for "the exterior surface of the outer surface." It appears that "outer surface" should be changed to "outer member."

4. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The use of the trademark, VELCRO, renders this claim indefinite because a trademark identifies the source of the goods, the characteristics of which may change over time, yet still be identified by the same trademark. Descriptive terminology must be substituted for VELCRO.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Friedler.

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Any one of Friedler's spherical bags is in the shape of a baseball because a baseball is spherical. Furthermore, Friedler's fastening member extends in a direction that is perpendicular to the handle. See Figures 1 and 2.

7. Claims 1-5, 7, 10, and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Eaton et al.

Eaton et al. disclose all claimed features. At least a portion of the fastening member extends in a direction that is substantially perpendicular to the handle. Eaton's bag is in the shape of a basketball, baseball, and soccer ball because it is spherical. Regarding claim 14, Eaton's pocket appears to be closed by mating hook and loop elements.

8. Claims 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Eaton et al.

A portion of Eaton's zipper extends in a direction substantially perpendicular to the first and second ends of the handle.

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Friedler.

Note Figure 8, which illustrates a football shaped bag. However, the fastener is parallel to the handle. It would have been an obvious matter of choice to one of ordinary skill in the art at the time the invention was made to provide the Figure 8 bag with a handle that is perpendicular to the fastener, as taught by the bag illustrated in Figure 9, because such a handle would function satisfactorily.

11. Claims 7, 8, 10, and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedler in view of Eaton et al.

It would have been obvious to provide Friedler's bag with an exterior pocket, as taught by Eaton et al., because a pocket is convenient for carrying accessories. To make the pocket from

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solid fabric, as required in claim 8, would have been obvious because solid fabric is routinely used to make bags.

12. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eaton et al.

To make Eaton's pocket from solid fabric would have been obvious because solid fabric is routinely used for pockets.

13. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eaton et al. in view of Reddy et al.

It would have been obvious to provide Eaton's ball carrier with a mesh pocket for holding a water bottle, as taught by Reddy et al. at 30, because a water bottle is used frequently during sporting events, and Reddy et al. provides a convenient way of carrying one. The mesh pocket may be either in addition to, or as a substitute for, Eaton's pocket.

14. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Friedler in view of Reddy et al.

It would have been obvious to provide Friedler's ball carrier with a mesh pocket for holding a water bottle, as taught by Reddy et al. at 30, because a water bottle is used frequently during sporting events, and Reddy et al. provides a convenient way of carrying one.

15. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eaton et al. in view of Gilmore.

It would have been obvious to form Eaton's pocket to include an entryway closed by a zipper, as taught by Gilmore at 10, 11, and 12, because a pocket with a zipper closure is equivalent to Eaton's disclosed pocket.

16. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eaton et al.

If it is determined that Eaton's pocket is not closed by mating hook and loop elements, it would have been obvious to use mating hook and loop elements because such elements are routinely used to close pockets.

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17. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over either Eaton et al. in view of Reddy et al., as applied to claim 9 or Friedler in view of Reddy et al., as applied to claim 9.


Furthermore, the use of elastic material for Reddy's mesh pocket would have been obvious because elastic mesh material is old and well known and because using mesh would allow the pocket to retract to a smaller size when not used to hold a water bottle.

18. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedler in view of Eaton et al. as applied to claim 7. Furthermore, the use of the claimed fasteners to close the pocket disclosed by Eaton et al. would have been an obvious matter of choice because such fasteners are old and well-known for such use.

19. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eaton et al. Furthermore, the use of the claimed fasteners to close the pocket disclosed by Eaton et al. would have been an obvious matter of choice because such fasteners are old and well-known for such use.

20. The remaining patents are cited to show other devices having similar features.

21. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703)305-3579 or 3580. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into group 3720 will be promptly forwarded to the examiner. Any inquiry concerning this communication should be directed to Stephen Garbe at telephone number (703) 308-1207.


Stephen P. Garbe
Primary Examiner
Group 3720